

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR
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JUDGMENT

The Rajasthan Cooperative Dairy Federation Ltd.
Vs
Ranjeet Ram Vishnoi & Anr.

D.B. CIVIL SPECIAL APPEAL NO.418/1994 AGAINST
THE ORDER DATED 2ND JULY, 1992 IN S.B. CIVIL
WRIT PETITION NO.3783/1990

DATE OF ORDER

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19.7.2006

PRESENT

HON'BLE THE CHIEF JUSTICE SHRI S.N. JHA
HON'BLE JUSTICE SHRI MOHAMMAD RAFIQ

Mr. D.K. Parihar, for the appellant.
Mr. S.N. Trivedi, for the respondents.

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BY THE COURT: (Per Hon'ble the Chief Justice)

This special appeal is directed against the order of the learned Single Judge dismissing the writ petition of the appellant. The appellant had filed the writ petition challenging an award of the labour court by which the respondent-workman was ordered to be reinstated with back wages. The labour court found on evidence that the workman had been retrenched without observing the statutory requirements. The court

disbelieved the appellant's case that the respondent had remained wilfully absent during the relevant period. It may be mentioned here that the respondent-workman was retrenched from service on 4.9.84; the dispute which he raised was referred for adjudication to the labour court on 30.6.1986 and the labour court gave its award on 13.3.1999. It is not in dispute that the respondent-workman has been reinstated and also paid back wages pursuant to the award. This appeal is concluded by concurrent findings of fact and there is no scope for interference in this appeal.

Counsel for the appellant referred to some decision of this Court and submitted that where the employee does not turn up for duty despite notice, he is not entitled to back wages for the period of absence. Counsel submitted that it would set bad precedent if despite remaining wilfully absent from duty, the respondent is paid back wages for the period. He also submitted that though the appellant paid back wages pursuant to the award and he continues to be in its employment, the appellant may be permitted to recover the amount of back wages by making adjustment from his future wages.

We do not find any substance in the submissions of counsel. The labour court disbelieved the appellant's case of wilful absence with which the learned Single Judge did not interfere and, therefore, the submission that payment of back wages even though the respondent was wilfully absent from duty would a bad precedent is without any

substance. A case is decided on its own facts and there is no question of any direction for payment of back wages being precedent in a subsequent case de hors facts of that case.

In the result we find no merit in this appeal which is accordingly dismissed.

(MOHAMMAD RAFIQ),J.

(S.N. JHA), CJ.

c.p.goyal/-